

AMENDED IN SENATE AUGUST 5, 1996

AMENDED IN SENATE JULY 2, 1996

AMENDED IN ASSEMBLY APRIL 23, 1996

AMENDED IN ASSEMBLY MARCH 20, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2331

**Introduced by Assembly Member Goldsmith
(Coauthor: Assembly Member Alpert)**

February 15, 1996

An act to ~~amend Section 594 of the Penal Code, and to~~
amend Section 13202.6 of the Vehicle Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2331, as amended, Goldsmith. Crime: graffiti.

~~(1) Existing law provides that any person who defaces with graffiti real or personal property not his or her own where the amount of defacement is \$400 or more but less than \$5,000 is guilty of a misdemeanor and is punishable by imprisonment in a county jail not exceeding one year, or by a fine of \$5,000, or by both that fine and imprisonment.~~

~~This bill would make this offense a felony or a misdemeanor. A person who violates the above provision and is convicted of a felony would be punishable by 16 months or 2 or 3 years in state prison. By increasing the penalty for a crime this bill would create a state mandated local program.~~

~~(2) Existing law, known as “the three strikes law” and codified in 2 initiative statutes, prescribes alternative prison sentencing for any person convicted of a felony who has one or more prior serious or violent felony convictions. The initiative statutes provides that any amendment of these provisions requires a 2/3 vote of the membership of each house of the Legislature.~~

~~This bill would provide that a felony conviction under the provisions in (1) above shall not constitute a current felony conviction for purposes of sentencing under the “three strikes” provisions of those initiative statutes. Because the bill would constitute an amendment of those initiative statutes, the bill would require a 2/3 vote.~~

~~(3)~~

~~Existing law authorizes a court to suspend for one year the driving privilege of a person convicted of violating the above graffiti provision.~~

~~This bill would instead require the court to suspend for one year the driving privilege of a person convicted of violating the above graffiti provision, except when a personal or family hardship exists.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: 2/3 majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

~~1 SECTION 1. Section 594 of the Penal Code is
2 amended to read:~~

~~3 594. (a) Every person who maliciously commits any
4 of the following acts with respect to any real or personal
5 property not his or her own, in cases other than those
6 specified by state law, is guilty of vandalism:~~

~~7 (1) Defaces with graffiti or other inscribed material.~~

~~8 (2) Damages.~~

~~(3) Destroys.~~

~~Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, or furnishings belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.~~

~~(b) (1) If the amount of defacement, damage, or destruction is fifty thousand dollars (\$50,000) or more, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than fifty thousand dollars (\$50,000), or by both that fine and imprisonment.~~

~~(2) If the amount of defacement, damage, or destruction is five thousand dollars (\$5,000) or more but less than fifty thousand dollars (\$50,000), vandalism is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.~~

~~(3) (A) Except as provided in subparagraph (B), if the amount of defacement, damage, or destruction is four hundred dollars (\$400) or more but less than five thousand dollars (\$5,000), vandalism is punishable by imprisonment in a county jail not exceeding one year, or by a fine of five thousand dollars (\$5,000), or by both that fine and imprisonment.~~

~~(B) Notwithstanding subparagraph (A), if the vandalism consists of defacing property with graffiti or other inscribed materials and the amount of defacement is four hundred dollars (\$400) or more but less than five thousand dollars (\$5,000), the vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of five thousand dollars (\$5,000), or by both that fine and imprisonment.~~

~~(4) If the amount of defacement, damage, or destruction is less than four hundred dollars (\$400), vandalism is punishable by imprisonment in a county jail~~

~~for not more than six months, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.~~

~~(e) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court may, in addition to any punishment imposed under subdivision (b), at the victim's option, order the defendant to clean up, repair, or replace the damaged property himself or herself, or to pay for someone else to do so.~~

~~(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent upon a finding of good cause.~~

~~(e) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.~~

~~(f) A felony conviction under subparagraph (B) of paragraph (3) of subdivision (b) shall not constitute a current felony conviction for purposes of subdivisions (b) to (i), inclusive, of Section 667 or Section 1170.12.~~

~~SEC. 2.~~

~~SECTION 1.~~ Section 13202.6 of the Vehicle Code is amended to read:

13202.6. (a) (1) For every conviction of a person for a violation of Section 594, 594.3, or 594.4 of the Penal Code, committed while the person was 13 years of age or older, the court shall suspend the person's driving privilege for one year, except when the court finds that a personal or family hardship exists that requires the person to have a driver's license for his or her own, or a member of his or her family's, employment or medically related purposes. If the person convicted does not yet have the privilege to drive, the court shall order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. However, if there is no further conviction for violating

1 Section 594, 594.3, or 594.4 of the Penal Code in a
2 12-month period after the conviction, the court, upon
3 petition of the person affected, may modify the order
4 imposing the delay of the privilege. For each successive
5 offense, the court shall suspend the person's driving
6 privilege for those possessing a license or delay the
7 eligibility for those not in possession of a license at the
8 time of their conviction for one additional year.

9 (2) Any person whose driving privilege is suspended
10 or delayed for an act involving vandalism in violation of
11 Section 594, 594.3, or 594.4 of the Penal Code, may elect
12 to reduce the period of suspension or delay imposed by
13 the court by performing community service under the
14 supervision of the probation department. The period of
15 suspension or delay ordered under paragraph (1) shall be
16 reduced at the rate of one day for each hour of
17 community service performed. For purposes of this
18 paragraph, "community service" means cleaning up
19 graffiti from any public property, including public transit
20 vehicles.

21 (3) As used in this section, the term "conviction"
22 includes the findings in juvenile proceedings specified in
23 Section 13105.

24 (b) (1) Whenever the court suspends driving
25 privileges pursuant to subdivision (a), the court in which
26 the conviction is had shall require all drivers' licenses held
27 by the person to be surrendered to the court. The court
28 shall, within 10 days following the conviction, transmit a
29 certified abstract of the conviction, together with any
30 drivers' licenses surrendered, to the department.

31 (2) Violations of restrictions imposed pursuant to this
32 section are subject to Section 14603.

33 (c) The suspension, restriction, or delay of driving
34 privileges pursuant to this section shall be in addition to
35 any penalty imposed upon conviction of any violation of
36 Section 594, 594.3, or 594.4 of the Penal Code.

37 ~~SEC. 3. No reimbursement is required by this act~~
38 ~~pursuant to Section 6 of Article XIII B of the California~~
39 ~~Constitution because the only costs that may be incurred~~
40 ~~by a local agency or school district will be incurred~~

1 ~~because this act creates a new crime or infraction,~~
2 ~~eliminates a crime or infraction, or changes the penalty~~
3 ~~for a crime or infraction, within the meaning of Section~~
4 ~~17556 of the Government Code, or changes the definition~~
5 ~~of a crime within the meaning of Section 6 of Article~~
6 ~~XIII B of the California Constitution.~~
7 ~~Notwithstanding Section 17580 of the Government~~
8 ~~Code, unless otherwise specified, the provisions of this act~~
9 ~~shall become operative on the same date that the act~~
10 ~~takes effect pursuant to the California Constitution.~~

